

Applic. No. 10/782,324
Response Dated April 25, 2005
Responsive to Office Action of March 25, 2005

Remarks/Arguments:

Reconsideration of the application is respectfully requested.

~~Claims 1 and 3-11 are presently pending in the application.~~

Claims 1, 3, 4 and 11 have been amended. Claim 2 has been canceled.

The specification and the claims have been amended in order to correct a typographical error. The term "releases position" has been replaced by the correct term "release position."

In the second paragraph on page 2 of the above-identified Office Action, claims 1 and 11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Tomaru (U.S. Patent No. 5,531,317).

Claims 1 and 11 have been amended to include the limitation of original claim 2. The anticipation rejection of claim 1 and 11 is therefore moot. Claims 3 and 4 have been adapted to the wording of amended claim 1.

Applicants further argue that there is no "inherent" disclosure of the limitation that the actuating lever of Tomaru is configured as a deformation element. As discussed in MPEP § 2112, an element of a claim that is not expressly disclosed in a prior art reference is inherently disclosed therein if, and only if, the "missing" element is necessarily

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present in the prior art. The principles of inherency require that the inherency be absolute, and not probabilistic. As far ~~as Applicants were able to ascertain, there is no disclosure~~
~~or suggestion in Tomaru that the actuating lever 11 of Tomaru~~
necessarily deforms in a crash. The actuating lever 11 of Tomaru may just as well injure the driver without being deformed. Alternatively, the force exerted by the driver's body in a crash may rotate the actuating lever 11 of Tomaru in a clockwise direction into its open position. Fig. 6 of Tomaru illustrates that the tightening direction A is in the counterclockwise direction and thus it may well be that an external force during a crash may untighten the actuating lever 11 rather than deform it. In summary, the atuating lever of Tomaru does not necessarily deform and absorb energy in a crash. Therefore, Tomaru does not inherently disclose that the actuating lever is configured as a deformation element.

In the second paragraph on page 3 of the Office action, claims 1-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Tomaru (U.S. Patent No. 5,531,317) in view of Roseby (U.S. Patent No. 3,760,651).

Applicants respectfully traverse the above rejections.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

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Claim 1, and correspondingly claim 11, recites, among other limitations:

~~the actuating lever (8) having an angled region formed with a~~
~~predetermined buckling point (S) and~~ being configured as a
deformation element for absorbing energy wherein the actuating
lever (8) is deformable in a crash such that the handle
component (9) moves toward the tilt-adjustable casing tube
(5).

On page 3 of the Office action, the Examiner correctly stated that Tomaru does not explicitly disclose an actuating lever pre-designed for impact absorption. The Examiner cited Roseby in order to show a lever 20 with an angled region. Figs. 4 and 5 of Roseby show that the lever 20 has two angled regions. At the first angled region, the lever 20 has a transition from a horizontal region to an inclined region and, at the second angled direction, the lever 20 has a transition from the inclined region to the horizontal region.

Col. 3, lines 19-23 of Roseby state that the lever 20, 22 has a round cross section with a diameter of five-sixteenths inch. Since the lever 20 of Roseby is made entirely of steel and has the same round cross-section and the same diameter along its entire length, there is no pre-designed buckling point anywhere along the lever 20. Thus, neither the first angled region nor the second angled region of Roseby is formed with a

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predetermined buckling point. Col. 4, lines 5-15 of Roseby state that "the main strain would be transferred to the stem ~~22, which would bend under impact."~~ In other words, the lever ~~20 of Roseby is designed such that the impact spreads over the~~ entire length of the lever 20. The lever 20 bends along its entire length because the lever has a constant diameter and cross-section along its entire length. In view of the above, it seems clear that Roseby does not show an angled region formed with a buckling point, as recited in amended claims 1 and 11.

Roseby actually teaches away from providing any buckling points. First, the weld area 30 is stronger than the round bar section 20 in order to avoid a "buckling" at the weld 30 (col. 2, lines 31-34). Second, the lever 20 is homogeneous in material, cross-section and diameter along its entire length and therefore there are no buckling points along the lever 20.

Roseby neither teaches, nor suggests, an angled region formed with a buckling point, as recited in amended claims 1 and 11 of the instant application.

It is accordingly believed that none of the references, whether taken alone or in any combination, teach or suggest the features of claims 1 or 11. Claims 1 and 11 are, therefore, believed to be patentable over the art. The

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dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1.

~~In view of the foregoing, reconsideration and allowance of~~
claims 1 and 3-11 are solicited.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,

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